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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/573,338	06/05/2006	Fritz Fuchs	27793-00109USPX	8778	
61060	7590	01/06/2009	EXAMINER		
WINSTEAD PC		MILLER, WILLIAM L			
P.O. BOX 50784		ART UNIT		PAPER NUMBER	
DALLAS, TX 75201		3677			
		MAIL DATE		DELIVERY MODE	
		01/06/2009		PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/573,338	FUCHS ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	William L. Miller	3677	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 29 October 2008.
- 2a) This action is **FINAL**.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-24 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-13 and 15-24 is/are rejected.
- 7) Claim(s) 14 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date _____ .	6) <input type="checkbox"/> Other: _____ .

**DETAILED ACTION**

***Response to Amendment***

1. The amendment filed 10-29-2008 has been entered.
2. Claims 1-24 are pending.
3. The substitute specification has been entered.

***Claim Rejections - 35 USC § 112***

4. Claims 3, 5, 15, 16, and 24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
5. Regarding claim 3, the phrase “opposite direction of screwing in at least half a revolution or a multiple” is unclear and indefinite.
6. Claim 5 is redundant with claim 1.
7. In claim 15, it is unclear if the actor is referencing the hinged joint as both are claimed as performing the tilting.
8. In claim 16, it is unclear if the means is referencing the actor of claim 15.
9. Claim 24 is incomplete as the structural cooperation between the changing and displaying means and the advertising carrier is undefined.

***Claim Rejections - 35 USC § 102***

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. Claims 1-9, 12, 13, 17-19, and 21-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Pedretti (US#2002/0157322).

12. Regarding claim 1-3 and 5, Pedretti disclose an advertising carrier comprising: at least one structural element 1 as a gas tight elongated hollow element made of flexible material, the outer surface of the hollow element capable of functioning as an advertising surface; and two pressure/tension elements 4 wound onto the hollow element.

13. Regarding claim 4, in Fig 7. an adjacent secured (clamped) structural element 1 is being viewed as a flexible membrane, while element 20 defines a flat surface. The membrane is capable of functioning as an advertising surface.

14. Regarding claims 6, 7, and 17, adjacent structural elements 1 are connected to each other on a longitudinal side thereof per Fig. 7 to define a supporting structure, while element 20 defines a cover capable as functioning as the advertising surface. The shaped defined by the structural element and the cover identifies a project to be advertised, such as a bridge.

15. Regarding claim 8, assuming the structural element to be one of the interior elements 1 shown in Fig. 7, the tension elements/ropes 4 on adjacent structural elements at least partially anchor the advertising carrier laterally as the adjacent structural elements at least partially anchor the advertising carrier laterally.

16. Regarding claim 9, element 20 in Fig. 7 is being viewed as a base plate.

17. Regarding claims 12 and 13, element 20 in Fig. 7 is being viewed as a mobile base, while element 19 provides the claimed means.

18. Regarding claims 18 and 19, an adjacent structural element 1 is secured to an outside of the structural element in Fig. 7 and is being viewed as the edge element. The cover 20 and

structural element has a partially angular shaped appearance via the angles present in the rectangular cover.

19. Regarding claim 21, the edge element is being viewed as peripheral bar arrangement/scaffold 2. The rectangular shape of the cover provides an angular outer shape.

20. Regarding claim 22, the visually appearing "lines" formed at joints between adjacent planks in cover 20 as shown in Fig. 7 is being viewed as an advertising message. It is noted indicia is not being claimed.

21. Regarding claim 23, the shape of the structural element is being viewed as "freely designable".

22. Regarding claim 24, the sequential planks (one after the other) forming cover 20 in Fig. 7 each provide an advertising message via their shape and material. It is noted indicia is not being claimed. The planks are removable and thus changeable.

***Claim Rejections - 35 USC § 103***

23. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

24. Claims 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pedretti in view of Vicino (US#4776121).

25. Regarding claim 10, Pedretti fails to disclose the structural element including lighting means. However, Vicino discloses a similar structural element 2 including lighting means 17. Therefore, as taught by Vicino, it would have been obvious to one of ordinary skill in the art at

the time the invention was made to modify Pedretti such that the structural element included lighting means to visually locate the carrier in the dark.

26. Regarding claim 11, Pedretti discloses a clamped (attached) surface 20 such that the included lighting means would be therebehind as evidenced by Fig. 7.

27. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pedretti.

28. Regarding claim 20, it unclear if the edge element defined above is made of soft plastic. However, it would have been an obvious design consideration to modify Pedretti such that the edge element was made of soft plastic as the selection of a known material based upon its suitability for the intended use is a design consideration within the skill of the art. In re Leshin, 227 F.2d 197, 125 USPQ 416 (CCPA 1960). The soft plastic material would provide a weather resistant edge element.

***Allowable Subject Matter***

29. Claim 14 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

30. Claims 15 and 16 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

31. Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

32. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See PTO-892.

33. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William L. Miller whose telephone number is (571) 272-7068. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Victor Batson can be reached on (571) 272-6987. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/William L. Miller/  
Primary Examiner, Art Unit 3677